

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF OHIO
CINCINNATI DIVISION

IN RE:

CASE NO. 3:19-bk-31387

John M. Wallace
Deborah A. Wallace

Debtors

LANDLORD'S MOTION FOR RELIEF FROM STAY

Now comes Debtors' Landlord, Victoria Voroshyn, pursuant to Bankruptcy Code Section 362(d) and Rule 4001 of the Bankruptcy Rules, and respectfully requests the following relief: (1) an Order granting Landlord relief from the automatic stay provided under Section 362(a) to permit the Landlord to pursue restitution of her premises in the ongoing state court action against these Debtors; an Order declaring that Landlord's claim for pre and post-petition rent in state court against the Debtors for past due rent is allowable and entitled to priority as set forth below; and (3) for such relief as the court may deem appropriate.

/s/ *Charles Tate*

Charles Tate (OH. Sup. Ct. #0072701)
8118 Corporate Way, Suite #110
Mason, OH. 45040
Phone: (513) 204-1441
Fax: (513) 225-7985
Email: charlestata@fuse.net

MEMORANDUM IN SUPPORT OF MOTION

1. Landlord is the owner of the property currently occupied by the Debtors and more particularly described as 1285 Durbin Terrace Maineville, OH. 45039.
2. Debtors' tenancy in the property is defined by a lease contract calling for monthly payments in the amount of \$1,600.00 per month. Further, Debtors are obliged under the lease to pay utilities. Upon information and belief the Debtors have not been paying their utilities and these are in danger of being discontinued by the provider(s).

3. The Debtors have been in violation of their lease by virtue of non-payment of rent since July 2018. Landlord received some payment in January 2019, but Debtors are currently in arrears for January, February, March, April, and May 2019. They continue to reside in the premises, forcibly and unlawfully detaining them from the Landlord. Debtors are also in breach of their lease agreement for pets.
4. Landlord's interest in the premises are not being adequately protected and Landlord needs to proceed in the pending state court action to protect her current and future interest in the property.

WHEREFORE, Landlord prays for the following relief:

1. An Order granting Landlord relief from the bankruptcy stay to pursue legal action in the state court.
2. An Order declaring that Landlord's claims for past due pre and post-petition rent is allowable and entitled to priority, and
3. For such other relief as may be appropriate.

/s/ Charles Tate

Charles Tate (OH. Sup. Ct. #0072701)
8118 Corporate Way, Suite #110
Mason, OH. 45040
Phone: (513) 204-1441
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Email: charlest@fuse.net

Certificate of Service: Undersigned hereby certifies that a copy of the foregoing was served through the electronic service provided via the court system on May 17, 2019 at:

Mr. R. Michael Smith
4050 Executive Park Dr., Suite 450
Cincinnati, OH. 45241

Trustee Donald F. Harker, III
2135 Miamisburg-Centerville Rd.
Centerville, OH 45459

Debtor and Co-Debtor were served by ordinary mailing to the address listed below and on their petition on May 17, 2019, at:

Debtor John Wallace
1285 Durbin Terrace
Maineville, OH. 45039

CoDebtor Deborah Wallace
1285 Durbin Terrace
Maineville, OH. 45039

/s/ Charles Tate

Attorney for Landlord

NOTICE

Counsel for Landlord has filed papers with the Court seeking relief from the automatic stay. **Your rights may be affected.** You should read these papers carefully and discuss them with your attorney.

If you do not want the Court to order the requested relief, or if you want the court to consider your views on the Motion for Relief from Stay, then within twenty-one (21) days from the date of service as set forth on the certificate of service on said Motion, you or your attorney must:

File with the Court a written request for a hearing and response explaining your position to:

Clerk of the US Bankruptcy Court
120 W. Third Street, Suite 309
Dayton, OH. 45402

If you mail your response to the Court for filing, you must mail it early enough so the Court will receive it on or before the date stated above. You must also deliver copies to:

Charles Tate
8118 Corporate Way, Suite #110
Mason, OH. 45040

Office of the Trustee
One South Main St., Suite 1590
Dayton, OH. 45402

Trustee Donald F. Harker, III
2135 Miamisburg-Centerville Rd.
Centerville, OH 45459

If you fail to take such steps the Court may decide that you do not oppose the relief sought by the Landlord and enter an order granting that requested relief.